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METROPOLITAN SCHOOL DISTRICT OF WARREN TOWNSHIP

January 30, 2013

REQUEST FOR REVIEW

CC Docket No 02-6 E-Rate Appeal Filed Electronically via the FCC ECFS System

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

RE: Request for Waiver and Review of Administrator's Decision on Appeal 471 Application 867464
FRN 2364240, Issued on December 11, 2012.

Information

Applicant Name:	MSD OF WARREN TOWNSHIP
Billed Entity Number:	130284
Funding Year:	2012 (2012-2013)
Form 471 Application:	867464
Funding Request Number:	2364240
Service:	Web Hosting
Service Provider:	MarketPath, Inc (SPIN: 143036390)

To Whom It May Concern:

This is an appeal of the denial of the Administrator's Decision on Appeal – Funding Year 2012 – dated December 11, 2012 in connection with FRN 2364240 on 471 Application Number 867464. A copy of the Administrator's Decision of Appeal is attached hereto as Exhibit A.

Text Being Requested for Review:

- “During the Program Integrity Assurance (PIA) review, USAC has determined that Website Design with MarketPath Content Management Solutions (CMS) is not an eligible service for E-Rate funding. In your appeal, you did not provide any new information to show that USAC's original determination was incorrect. Consequently, your appeal is denied.”
- “FCC rules provide that funding may be approved only for eligible products and services.”
- “FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced accordingly.”

EDUCATION & COMMUNITY CENTER
975 North Post Road
Indianapolis, Indiana 46219
(317) 869-4300 FAX: (317) 869-4399

Appeal Review Request:

USAC based the denial of FRN 2364240 on the belief the funding request included ineligible services. USAC based this denial on an out-dated contract that was originally submitted by clerical and administrative error. The originally submitted contract included charges for ineligible Website

Design for services in 2009. Yearly charges thereafter are based only on eligible Web Hosting services to allow MSD Warren Township to maintain a website on the Internet. Exhibit B is the amendment to the 2009 contract, signed on 3/2/2012, defining the yearly charges are based only on eligible web hosting.

Exhibits B, C, and D demonstrate good cause FRN 2364240 is for eligible web hosting service and not web design. Exhibit B and C also show Marketpath web hosting services does not violate the 30% rule and clearly validates the eligibility of web hosting charges. Exhibit B and C openly outline the vendor's annual web hosting service as follows:

Total Cost of Marketpath web hosting service (90%) – includes website hosting, storage space, blogging	\$25,000.00
Total Cost of Marketpath Ineligible web hosting service (10%) – includes support fees	\$2,500.00
Total Cost of E-Rate Eligible web hosting service (90%)	\$22,500.00

The School Corporation believes according to the attached Exhibits, USAC erred in denying support for web hosting with Marketpath. The School Corporation believes special consideration to the attached Exhibits clearly show there is no evidence of waste, fraud or abuse, misuse of funds, or a failure to adhere to core program requirements. Furthermore, the School Corporation believes that the denial of E-Rate funds for the full funding year inflicts undue hardship and an approval for FRN 2364240 would better serve the public interest.

Attached documents which support The Request for Review:

- **Exhibit A** – Copy of Administrator's Decision of Appeal – Funding Year 2012 -2013, Dated December 11, 2012
- **Exhibit B** – Copy of Service Provider Amendment and Eligibility of Web Hosting
- **Exhibit C** – Service Provider Explanation of Web Hosting Services
- **Exhibit D** – Service Provider Web Hosting Invoice

Thank you for your time and consideration. You are hereby authorized to contact our E-Rate Contact, Katy Smith, if you have questions concerning this appeal or require additional information. Her contact information is as follows:

Authorized person who can best discuss this Appeal:

Katy Smith

Phone: (248) 514-8193

AdTec, Inc

Fax: (734) 325-7574

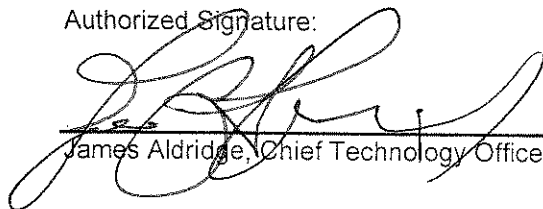
PO Box 2061

Email: katy@adtecerate.com

Belleville, MI 48112-2061

(preferred mode of contact)

Authorized Signature:



James Aldridge, Chief Technology Officer, MSD of Warren Township

Exhibit A



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2012-2013

December 11, 2012

Katy Smith
AdTec-Administrative & Technical Consulting
P.O. Box 2061
Belleville, MI 48112-2061

Re: Applicant Name: MSD OF WARREN TOWNSHIP
Billed Entity Number: 130284
Form 471 Application Number: 867464
Funding Request Number(s): 2364240
Your Correspondence Dated: August 07, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2012 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2364240
Decision on Appeal: **Denied**
Explanation:

- During the Program Integrity Assurance (PIA) review, USAC has determined that Website Design with Marketpath Content Management Solutions (CMS) is not an eligible service for E-Rate funding. In your appeal, you did not provide any new information to show that USAC's original determination was incorrect. Consequently, your appeal is denied.
- FCC rules provide that funding may be approved only for eligible products and services. *See* 47 C.F.R. secs. 54.502. The USAC website contains a list of eligible products and services. *See* USAC website, www.usac.org/sl, Eligible Services List. FCC rules further require that if 30% or more of the applicant's funding request includes ineligible products and/or services, then the funding request must be denied, otherwise the funding request will be reduced

accordingly. *See* 47 C.F.R. sec. 54.504(b). The FCC's Aiken County Public Schools Order directed USAC to permit the applicant 15 calendar days from the date of receipt of notice in writing by USAC to revise its funding request to remove the ineligible services or allow the applicant to provide additional documentation to show why the services are eligible. *See* Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools Aiken, SC, et al., Schools and Libraries Universal Service Support Mechanism, File No. SLD-397612, et al., CC Docket No. 02-6, Order, 22 FCC Rcd 8735, FCC 07-61 para. 11 (May 8, 2007).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: James Aldridge

Exhibit B



December 16, 2013

Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

To Whom It May Concern:

I am writing this letter as part of an appeal of the denial of the Administrator's Decision on Appeal – Funding Year 2012 – dated December 11, 2012 in connection with FRN 2364240 on 471 Application Number 867464.

In regard to FRN 2364240, website design and development charges were included in the initial Marketpath contract in 2009 (for the initial site design and development work completed in 2009), but are not part of our annual agreement with MSD Warren. The amendment signed on 3/2/2012 cites the yearly charges are based only on web hosting to allow MSD of Warren Township to maintain a website on the Internet. No Marketpath content or Marketpath design services are provided as part of this yearly web hosting service. All such content must be published and managed by Warren. Marketpath web hosting service includes:

E-Rate Eligible Features (90% E-Rate Eligible)

- Website hosting for 1 district and 19 school sites
- Website hosting with 5 GB monthly throughout (per site)
- Media library for images, documents and content (1 GB storage)
- Up to fifty (50) pages per school or district site (pages and blogs combined)
- Menu/navigation editor
- Page and content editor
- Image gallery creator
- Blogging and calendar features
- Contact List for easy staff updates
- Password-protected pages
- Unlimited phone and email support
- Up to twenty five (25) total users across all sites
- 99.9% guaranteed site up time

E-Rate Ineligible Features (10%)

- Portion of technical support for ineligible features
- Performance monitoring & site back-up

As I mentioned earlier, Warren has not paid for design, development or content creation since the first year of our partnership. Since then, our services have focused on website hosting, storage, and website administrative tools for the creation and maintenance of the websites by Warren.



If you have any questions, please contact me at kkennedy@marketpath.com. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kevin A. Kennedy". The signature is fluid and cursive, with the first and last names being more prominent than the middle initial.

Kevin A. Kennedy
Chief Marketing Officer



Exhibit C



First Amendment to MarketPath Contract

This First Amendment to the MarketPath Contract is between MSD Warren Township ("Warren") and Marketpath ("Marketpath"). This First Amendment is made effective this 2nd day of March 2012.

RECITALS

Whereas, Warren and Marketpath entered into an Agreement effective June 19th, 2009 under the terms of which Warren desires to utilize services from Marketpath for website design and development, website hosting, and CMS.

Whereas, representatives of Warren and Marketpath met on March 2, 2012, and agreed to certain principles that would modify the terms of the original June 2009 Agreement.

Now Therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Warren and Marketpath (collectively "Parties"), agree as follows:

1. Marketpath shall provide web hosting service to Warren to maintain a website on the Internet. No Marketpath content, content creation, or Marketpath design services are provided as part of this service. All such content must be created, published and managed by Warren. The web hosting service will include:

E-Rate Eligible Features (90% E-Rate Eligible)

- Website hosting for 1 district and 19 school sites
- Website hosting with 5 GB monthly throughout (per site)
- Media library for images, documents and content (1 GB storage per site)
- Up to fifty (50) pages per school or district site (pages and blogs combined)
- Menu/navigation editor
- Page and content editor
- Image gallery creator
- Blogging and calendar features
- Contact List for easy staff updates
- Password-protected pages
- Unlimited phone and email support
- Up to twenty five (25) total users across all sites
- 99.9% guaranteed site up time

E-Rate Ineligible Features (10%)

- Portion of technical support for ineligible features
- Performance monitoring & site back-up

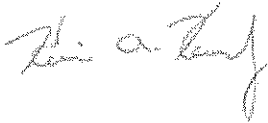
2. Warren agrees to pay the annual amount of \$25,000 for web hosting services.

Annual Cost of Service

Total Cost of Marketpath web hosting service – includes website hosting, storage space, blogging (for 20 websites)	\$25,000.00
Total Cost of Marketpath Ineligible web hosting service (10%) – includes support fees	\$2,500.00
Total Cost of E-Rate Eligible web hosting service (90%)	\$22,500.00

3. The Agreement is hereby amended by the terms and provisions hereof. All general provisions of the agreement shall control and bind the parties with respect to the terms of this Amendment. If any term or provision of the Agreement is contradictory to, or inconsistent with, any term or provision of this Amendment, then the terms and provisions of this Amendment shall in all events control. All terms of the Agreement not expressly amended hereby shall remain in full force and effect.
4. The contract end date remains in full force and effect to expire on 6/30/2014.
5. Except as modified hereby, the Agreement is hereby ratified and confirmed as being in full force and effect by all of the undersigned.
6. Marketpath and Warren hereby warrant and represent each to the other, that each party is authorized and empowered to execute this Amendment in the capacity indicated.

**AGREED:
Marketpath**



Signature

Kevin A. Kennedy
Printed

March 2, 2012
Date

**Metropolitan School
District Warren Township**



Signature

James Aldridge
Printed

March 2, 2012
Date



Exhibit D



MarketpathTM

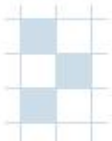
3850 Priority Way S Dr, Suite 100
Indianapolis, IN 46240

Invoice

Date	Invoice #
2912314234	663:
Terms	Due Date
F wg"qp"tgegk v	2; 12314234

Bill To

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Kpf kpcr qiku."K "6843;



Sales Rep
CHD

Date	Activity	Quantity	Rate	Amount
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Total				&47.222022
Payment				
Balance Due				&47.222022

